

89-1199

Supreme Court, U.S.  
FILED

OCT 4 1989

JOSEPH F. SPANIOL, JR.  
CLERK

NO. 89-

IN THE SUPREME COURT  
OF THE  
UNITED STATES

OCTOBER 1989 TERM

RODNEY F. STICH  
WESTERN DIABLO ENTERPRISES, INC.  
Petitioners

United States Bankruptcy Court  
Northern District California  
Judge Edward Jellen  
Respondents.

Real Party In Interest  
Jerome E. Robertson  
Charles Duck

On Writ of Certiorari to the United States  
Court of Appeals for the Ninth Circuit

Petitioner's Jurisdictional Brief

Rodney F. Stich  
P.O. Box 5  
Alamo, Calif. 94507  
Phone: 415-820-7250  
Petitioner in pro se



NO. 89-

IN THE SUPREME COURT  
OF THE  
UNITED STATES

OCTOBER 1989 TERM

RODNEY F. STICH  
WESTERN DIABLO ENTERPRISES, INC.  
Petitioners

United States Bankruptcy Court  
Northern District California  
Judge Edward Jellen  
Respondents.

Real Party In Interest  
Jerome E. Robertson  
Charles Duck

On Writ of Certiorari to the United States  
Court of Appeals for the Ninth Circuit

Petitioner's Jurisdictional Brief

Rodney F. Stich  
P.O. Box 5  
Alamo, Calif. 94507  
Phone: 415-820-7250  
Petitioner in pro se





## QUESTIONS PRESENTED FOR REVIEW

The issues relate to whether a chapter 11 debtor should pay the legal fees to defend an indicted bankruptcy trustee, whose criminal acts are the subject of lawsuits filed by petitioner after the federal courts protected the felonious and unconstitutional acts.

1. Is it unconstitutional to seize a person's life's assets, after the person seeks relief in chapter 11 from civil and constitutional violations, without the constitutional and statutory right to a hearing, to a noticed hearing, to legally recognized cause, and supporting evidence? Can a federal judge simply seize the life's assets of a party, without any semblance of due process, and traumatize the laws and constitution of the United States?

2. Is it constitutional to use the wrongfully seized assets, to pay the legal defenses for a bankruptcy trustee indicted for criminal misconduct in bankruptcy proceedings, compounding the constitutional outrages?

3. Do the justices of the U.S. Supreme Court have a moral, legal, and constitutional responsibility to prevent a pattern of gross constitutional violations by judges in



affected by the judicial scandal in the Ninth Circuit,  
relating to the wrongful acts?



## TABLE OF CONTENTS

Questions Presented	i
Table of Contents	ii
Opinions Below	1
Jurisdictional Statement	1
Constitutional and Statutory Provisions	2
Federal Questions Are Substantial	3
Factual Description	4
Argument	5
I. The Purpose Of An Injunction Is To Protect A Party From Suffering Great and Irreparable Harm	22
II. The Bankruptcy Court Lacked Juris- diction To Render Any Order	24
A. Absence of jurisdiction arises from the September 11, 1987 order refusing to accept jurisdiction, which had never been vacated	24
B. The December 14, 1987 order transferring venue from Las Vegas to Oakland was appealed, which halted all trial court proceedings on matters affected by the appeal	26
C. The Invalidity Of the Order Seizing Petitioner's Assets Arises From the Outrageous and Deliberate Violations of Clear and Settled Law and Constitutional Protections	27



III. The Victimized Petitioner Should Not Have To Pay the Legal Defense For Those Whose Criminal and Unconstitutional Acts Inflicted Grave Personal and Property Harms .	29
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

Summary	..... 30
---------	----------

App "A"	
Petitioner's petition for writ of mandamus and injunction.	

App "B"	
Denial of petition by Court of Appeals.	

App "C"	
Order authorizing petitioner's assets to defend indicted trustee Duck and co-conspirators.	

App "D"	
Indictment papers for trustee Duck.	





## TABLE OF AUTHORITIES

<u>CASE LAW</u>	<u>PAGE</u>
FEDERAL STATUTES	
<i>Dennis v. Sparks</i> 449 U.S. 24 (1980)	..... 13
<i>Gardener v. Toilet Goods Assn</i> 387 U.S. 167 (1967)	..... 13
<i>Jackson Dairy v. Hood</i> 596 F.2d 70 (2d Cir. 1979)	..... 23



### OPINIONS BELOW

Petitioner filed two petitions for writ of mandamus and request for injunction, with the Ninth Circuit Court of Appeals on August 16, 1989. Copy of one petition is attached as Appendix "A." The Court of Appeals denied both of the petitions on September 13, 1989. (Appendix "B.") The July 18, 1989 order by bankruptcy judge Edward Jellen to seize petitioner's assets to pay the legal defense for indicted trustee Charles Duck. (Appendix "C.") The criminal indictment by the U.S. Attorney, Northern District of California, September 25, 1989, charging former trustee, Charles Duck, with bankruptcy criminal acts. (Appendix "D.")

### JURISDICTIONAL STATEMENT

This petition for writ of certiorari is filed pursuant to (a) Rules 17.1(a)(c) and 18, of the Rules of the Supreme Court of the United States, to review the order of the Court of Appeals; (b) under the supervisory responsibilities of the U.S. Supreme Court, as articulated in part by Supreme Court Rule 17; (c) Title 28 U.S.C. § 1651(a)(writs in aid of respective jurisdiction); (d) Title 28 U.S.C. § 1343 and Title 42 U.S.C. §§ 1983, 1985, 1986



(responsibility to prevent or aid in the prevention of conspiratorial pattern of civil and constitutional violations); (e) criminal statutory requirement to intervene on the basis of the criminal acts associated with the multifaceted conspiracy, and arising from the underlying scandal implicating the federal judiciary.

### Constitutional and Statutory Provisions Involved

The Constitutional and statutory provisions that are a part of petitioner's writ of mandamus and request for injunction in the district court include (a) Fifth Amendment due process, equal protection, property rights, and privileges and immunities clause; (b) Title 11 U.S.C. §§ 1104, requiring a noticed hearing, legally recognized cause, and supporting evidence, before seizing the assets of a party who comes exercises the congressionally provided remedies under chapter 11 of the bankruptcy code; (c) Supreme Court Rule 17, articulating the Supreme Court's responsibilities over the lower courts, and especially, when a pattern of judicial corruption, constitutional violations, are rampant.



### Federal Questions Are Substantial

Pattern of judicial anarchy in the Ninth Circuit, starting from (a) the bankruptcy racketeering activities being uncovered by the U.S. Trustee; (b) obstruction of justice relating to an ongoing air-disaster, government, and judicial corruption involved with a series of fatal air tragedies; (c) blatant seizure of the assets of the air safety activist, rank with massive violations of rights and protections under the laws and constitution of the United States, and of countries operating under a system of laws and constitution. The pattern of judicial anarchy merges with the continuing scandal involving continuing air tragedies.

Pattern of judicial violation of clear and settled statutory law, of basic and fundamental constitutional rights, and misuse of the federal judiciary to silence the air safety activist and cover up for the multi-faceted scandal that is destroying our form of government.

Involved in the issues are the actual survival of our form of government, in the face of judicial anarchy. Included in the harms arising from the multi-faceted conspiracy are the deaths of little children and others who





are, individually, no match for the judge-protect-judge conspiracy and judicial anarchy.

### FACTUAL DESCRIPTION

The latest development in this multi-faceted scandal was the indictment on September 25, 1989, of former bankruptcy trustee Charles Duck. (Appendix "C.") This indictment was forced upon the unwilling U.S. Attorney, who had protected the criminal acts for years, even after petitioner brought them to his attention two years earlier. The criminal indictment and related statements issued by the U.S. Trustee and U.S. Attorney made clear that a major bankruptcy racketeering enterprises exist in the Ninth Circuit, which should be no surprise to the federal courts, who themselves play a part in it, and have escaped indictment.

Petitioner repeatedly brought many of these wrongful acts to the attention of bankruptcy judge Edward Jellen (who was later discovered to be an active part of the Ninth Circuit racketeering enterprises); to the attention of the Ninth Circuit Bankruptcy Appellate Panel; to



the attention of several U.S. district judges<sup>1</sup> in the Ninth Circuit; to the attention of the entire Ninth Circuit Court of Appeals; and to the attention of the U.S. Supreme Court.

Despite the gravity of the constitutional and criminal misconduct, and the related national issues<sup>2</sup> stated in the appeals, petitions, and other writings, the gross misconduct by federal judges, trustees, state judges, were protected, and *de facto* approved. Malfeasance, misfeasance, nonfeasance, obstruction of justice, were the only reactions to these attempts to address what may be the nation's worst bankruptcy scandal, and tied in to the air disaster, government, and judicial scandal that petitioner seeks to expose.

Petitioner was forced to seek relief in the Congressionally-provided Chapter 11 bankruptcy when the federal courts abdicated their responsibilities, approving the following violations, repeated over and over again for

---

<sup>1</sup> Judges Charles Legge, Samuel Conti, Marilyn Petal, Milton Schwartz, and others.

<sup>2</sup> Continuing air safety corruption, corruption in Department of Justice as they obstruct justice in protecting the air disaster-related felonies, making possible making of the air tragedies; judicial corruption.

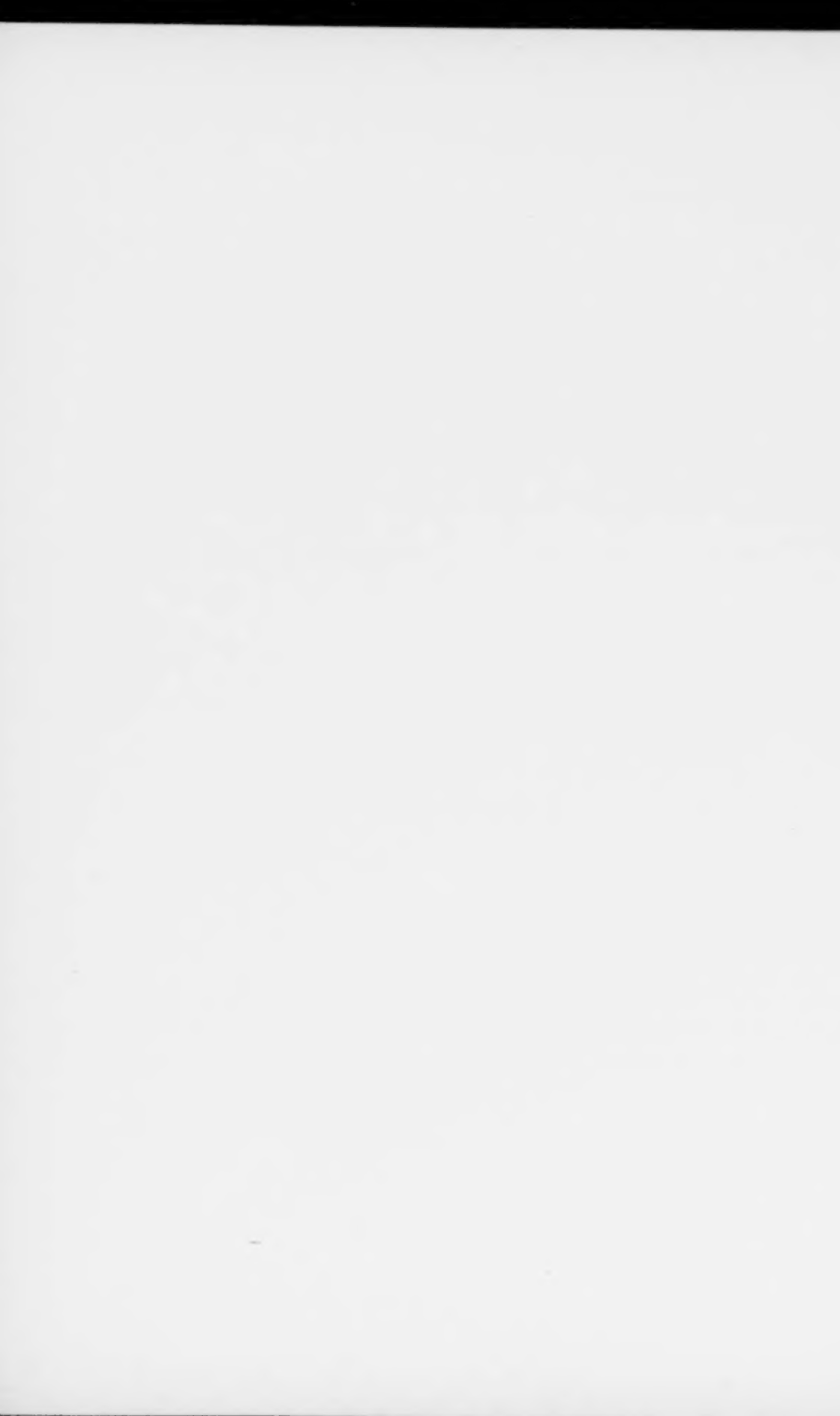


the past six years:

A. Attacks upon petitioner's constitutionally protected personal and property rights commenced with a sham California cause of action that the U.S. Supreme Court held unconstitutional for the past half century; which was barred by federal statutory law (Full Faith and Credit) and related case law; barred by over two dozen California statutes and rules of court, several doctrines of law, numerous California Supreme Court decisions, California constitutional due process and property protections; and required the cooperating California judges to act without personal and without subject matter jurisdiction so as to make the scheme workable. This Court has been aware of this scandal for the past 15 years.<sup>3</sup>

---

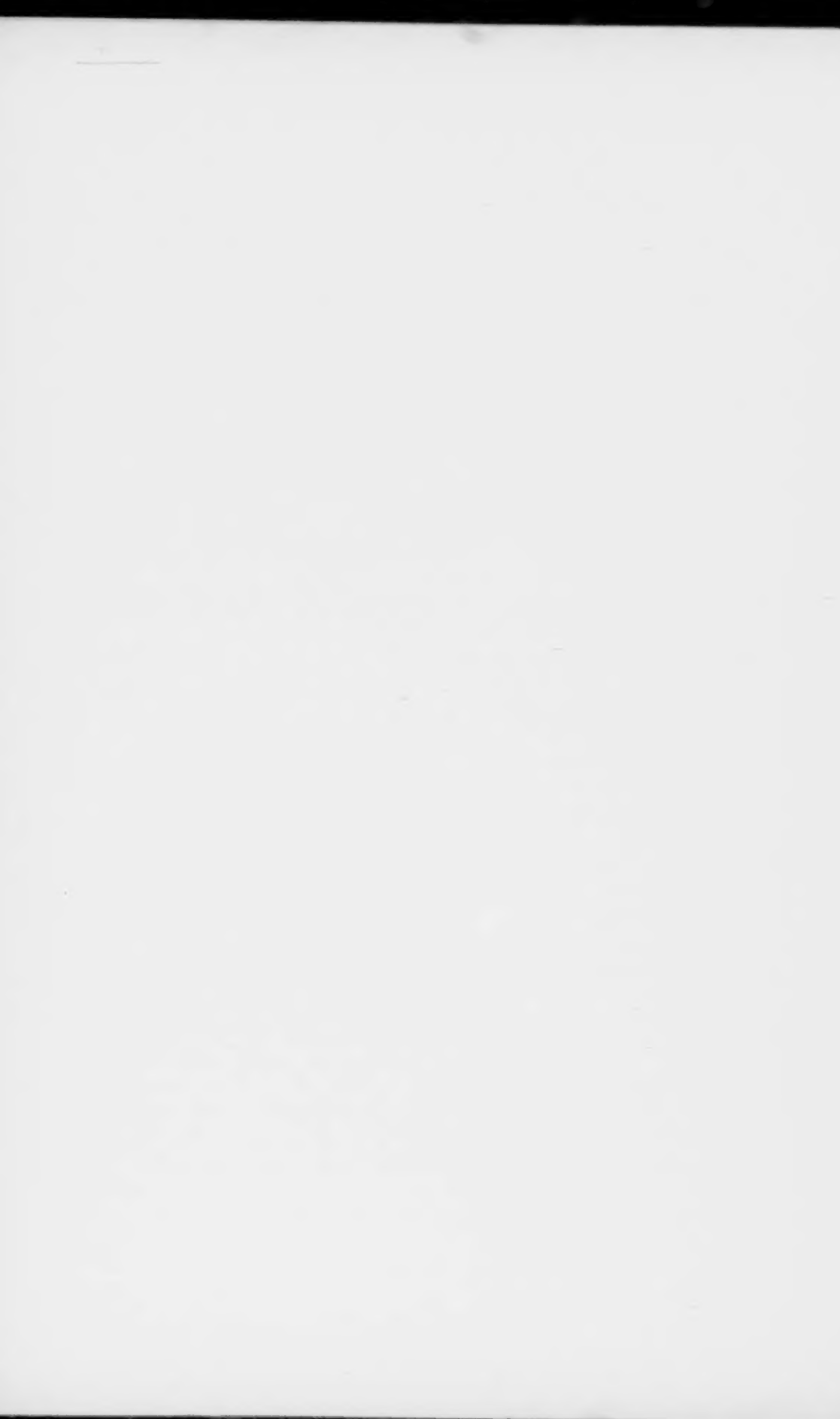
<sup>3</sup> *Stich v. United States, et al.*, 554 F.2d 1070 (9th Cir.) (table), *cert. denied*, 434 U.S. 920 (1977)(addressed hard-core air safety misconduct, violations of federal air safety laws, threats against government inspectors not to report safety violations and misconduct); *Stich v. National Transportation Safety Board*, 685 F.2d 446 (9th Cir.)(table), *cert. denied*, 459 U.S. 861 (1982))(addressed repeated criminal falsification of official airline accident reports, omitting highly sensitive air safety misconduct, making possible repeated crashes from the same sequestered problems); Amicus curiae brief filed on July 17, 1975, in the Paris DC-10 multi-district litigation, *Flanagan v. McDonnell Douglas*



The sham California cause of action held that petitioner's 22 years of personal and property rights, adjudicated in a 1966 divorce judgment, reestablished in four subsequent confirming judgments, and acquired under the laws and constitution of the United States, and prior states of residence, were void. The reason? The 1966 court exercised personal jurisdiction on the basis of petitioner's five month's residence, which California judges would not recognize. The preposterous bankrupt argument and holding was that petitioner's failure to purchase real estate during his five month's residence in the 1966 divorce court forum showed he did not have the mental thought processes of domicile, that he did not intend to live forever in the jurisdiction of the 1966 court. The absurdity of that cause of action, its gross unlawful and unconstitutional nature, and the absolute

---

*Corporation and United States of America*, Civil Action 74-808-PH, MDL 172, Central District California.)(addressing the long standing FAA misconduct, of which the coverup of the DC-10 cargo door problem was one of repeated instances of tragedy related misconduct); *U.S. v. Department of Justice*, District of Columbia, Nos. 86-2523, 87-2214, and other actions filed by claimant seeking to expose and correct the powerful and covert air disaster misconduct.



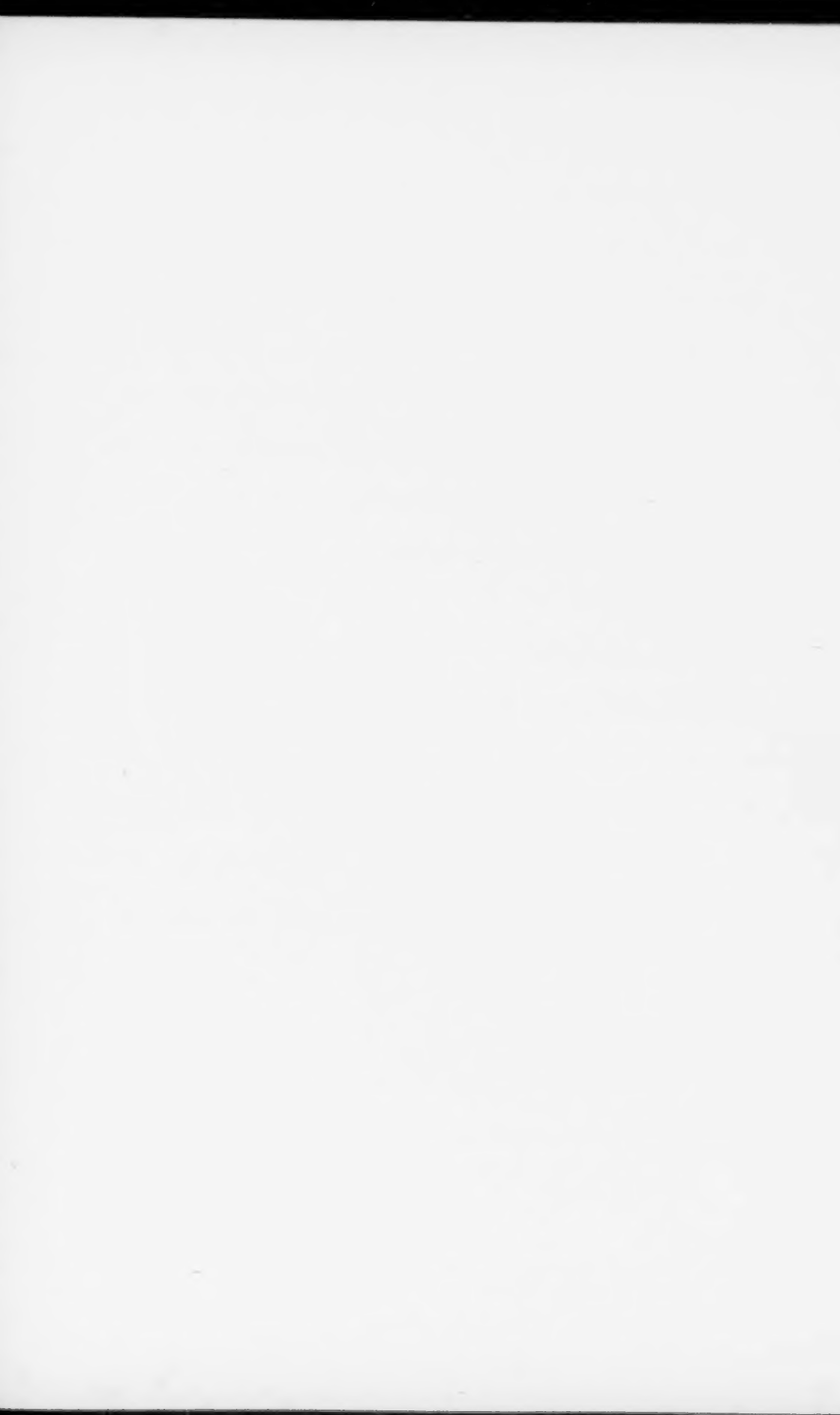


judicial gridlock in the California and federal courts, the dozens of violations of Constitutional, statutory and case law rights, establishes the scandalous judicial conspiracy, uniting the entire legal fraternity and the state and federal judiciary, to destroy one person, whose only fault was in trying to prevent the repeated deaths of countless human beings arising from air safety corruption rampant in the two air safety agencies of the United States government!

This preposterous argument was the sole basis for destroying seven years of petitioner's life, and rendering him literally destitute for the remainder of petitioner's life. That phony argument violated U.S. Supreme Court decisions of the past half century;<sup>4</sup> violated federal Full Faith and Credit statutes (28 U.S.C. § 1738); violated

---

<sup>4</sup> Vanderbilt v. Vanderbilt (1957) 354 U.S. 416 (requiring the recognition of ex parte divorce judgments; Estin v. Estin (19 ) (requiring the recognition of prior divorce judgments); Sherrer v. Sherrer (1948) 334 U.S. 343; Coe v. Coe (1948) 334 U.S. 378 (requiring the recognition of prior divorce judgments); Perrin v. Perrin, 408 F.2d 107 (3rd Cir. 1969) (prohibiting denying recognition to prior judgments when exercised on one day's residence). In Jordon v. Gilligan, 500 F.2d 701, 707 (6th Cir. 1974) the court held:



constitutional rights and protections;<sup>5</sup> violated dozens of California statutes;<sup>6</sup> California rules of court;<sup>7</sup> California

---

<sup>5</sup> Fourteenth Amendment due process, equal protection, property, liberty, freedom rights; Privileges and Immunity Clause rights under Article IV, § 1, and under the 14th Amendment (depriving right to obtain divorce on universally recognized residence basis, and right to change residence); right to unabridged interstate travel, without losing rights and privileges acquired in prior jurisdictions of residence; Article IV, § 1 (Full Faith and Credit Clause, and Title 28 U.S.C. § 1738, requiring recognition of the personal and property rights in the California divorce judgment, its entry for recognition as local judgments in the courts of Nevada, Oklahoma, and Texas.

<sup>6</sup> Mandatory divorce judgment recognition statutes (Civil Code §§ 4554, 5004, 5164; Code of Civil Procedure §§ 1699(b), 1713.3, 1908, 1913, 1915 (effective when the 1966 judgment was rendered and for nine years thereafter); Evidence Code §§ 666, 665, 622; (statute of limitations, Civil Code §§ 880.020, 880.250; Code of Civil Procedure §§ 318, 338, 343; Statute of limitations: Code of Civil Procedure 318, 338, 343; Civil Code §§ 880.020, 880.250; mandatory requirement to recognize that the prior court acted in the lawful exercise of its jurisdiction when the judgment is under attack two decades after its exercise of jurisdiction, and the acceptance of the benefits by both parties: Evidence Code §§ 666, 665, 622.

<sup>7</sup> Rules of Court 1201(c)(defines jurisdiction under Family Law Act, and limits jurisdiction to termination of an existing marriage, legal separation from an existing marriage, nullity of prior marriage); 1211 (limits parties to existing wife and husband); 1212 (limits cause of action to those stated in the Rule 1281 petition form and 1282 response form, which do not include attacks on prior judgments); 1215 (limits causes of action to those stated on the Rule 1281 petition for dissolution of marriage form); 1222 (limiting jurisdiction to altering marital status as provided on form 1281); 1229(a), which prohibits inserting any matter in the



Supreme Court decisions;<sup>8</sup> and resulted in orders ren-

---

1281 petition for dissolution of marriage form or the 1282 response form that is not printed on the face of the form, and which contains no provisions for attacking prior judgments); 1230(a)(2) (which deprives court of jurisdiction if there is a prior judgment); 1281 (petition for dissolution of marriage form, limiting causes of action to those stated on the form--which does not include attacks upon prior judgments); 1282 (response form, limiting response to the statements on the form, which provides no provision to answer cause of action attacking prior judgments).

<sup>8</sup> Prohibiting attacks upon prior divorce judgments on refusal to recognize residence, or for any other basis: Rediker v. Rediker (1950) 35 Cal.2d 796 ("it must be presumed that the foreign court had jurisdiction and that its recital thereof is true ... is not subject to collateral attack on a showing of error in the exercise of that jurisdiction ... The validity of a divorce decree cannot be contested by a party who ... aided another to procure the decree."); Scott v. Scott (1958) 51 C.2d 249 ("There should be no implication ... that would preclude contacts with the foreign country other than domicile as a basis of jurisdiction. ... Section 1915 of the Code of Civil Procedure provides: 'A final judgment of any other tribunal of a foreign country have jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as in the country where rendered, and also the same effect as final judgments as final judgments rendered in this state [which are final and conclusive of the rights and obligations of the parties--C.C. § 4554]"; Spellens v. Spellens (1957) 498 C.2d 210 ("The principle of estoppel is applicable [when] the divorce decree was alleged to be invalid for lack of jurisdiction ... The validity of a divorce decree cannot be contested by a party ... who aided another to procure the decree ..."); Whealton v. Whealton (1967) 67 C.2d 656 ("When both parties to a divorce action are before the court ... it is questionable whether domicile is an indispensable prerequisite for jurisdiction. ... the prerequisite of domicile may be easily avoided at the trial by parties wishing to invoke



dered without personal and without subject matter jurisdiction. Any one of these dozens of repeated violations invokes mandatory federal jurisdiction.

The five years of federal judicial protection of this sham action and multitude of civil and constitutional rights is one of many indicators of federal judicial involvement in the tragedy-riddled multi-faceted conspiracy. This Court is, of course, implicated. The intricacies of this relationship is described in a manuscript that will shortly be published. It is still time to show the Supreme Court as finally meeting its responsibilities.

The multitude of state and federal protections barring the sham cause of action were addressed by imposing a solid judicial due process gridlock by California judges. Each of the many procedural and substantive due process rights barring the cause of action were openly violated by the California Court of Appeal judges and the California Supreme Court. Constitutional rights and protections, and statutory protections, were openly and repeatedly

---

the jurisdiction of a court, with little fear in most instances that the judgment will be less effective than if a valid domicile in fact existed.").





violated for six years, with the corrupt aid and comfort of federal judges.

When petitioner unexpectedly exercised rights and protections guaranteed under the U.S. Constitution and by federal statutory and case law, federal judges had to extend the California judicial due process gridlock to the federal courts. This extension was necessary to insure the success of the sham California action, to protect the San Francisco law firm of Friedman, Sloan, and Ross—acting as fronts in the scheme, and protect the California judges who cooperated in the scheme, and who were now protesting when they were named in federal civil right actions.

The tactics used by federal judges<sup>9</sup> extended the judicial due process gridlock to federal courts, and included the following unlawful and unconstitutional conduct: (a) *sua sponte* dismissals without a hearing; (b) Rule 12 and 56 dismissals, that was barred because of the multiple federal causes of action stated in the com-

---

<sup>9</sup> Judges Milton Schwartz, Raul Ramirez, Marilyn Petal, Samuel Conti, Charles Legge, and others.



plaint;<sup>10</sup> (c) punished petitioner for exercising constitutionally guaranteed rights in the face of outrageous civil, constitutional, and RICO violations, by ordering petitioner to pay over \$150,000, financial sanctions to those committing the violations;<sup>11</sup> (d) reversing the legal criteria of injunctions to bar petitioner from obtaining relief from great and irreparable harm while simultaneously protecting those inflicting the outrages;<sup>12</sup> (e) rendering repeated injunctions<sup>13</sup> barring petitioner access to the federal courts, suspending the rights and protections under the constitution and federal statutory and related case law,<sup>14</sup> —while simultaneously protecting those committing the outrages against petitioner; (f) unfiling fed-

---

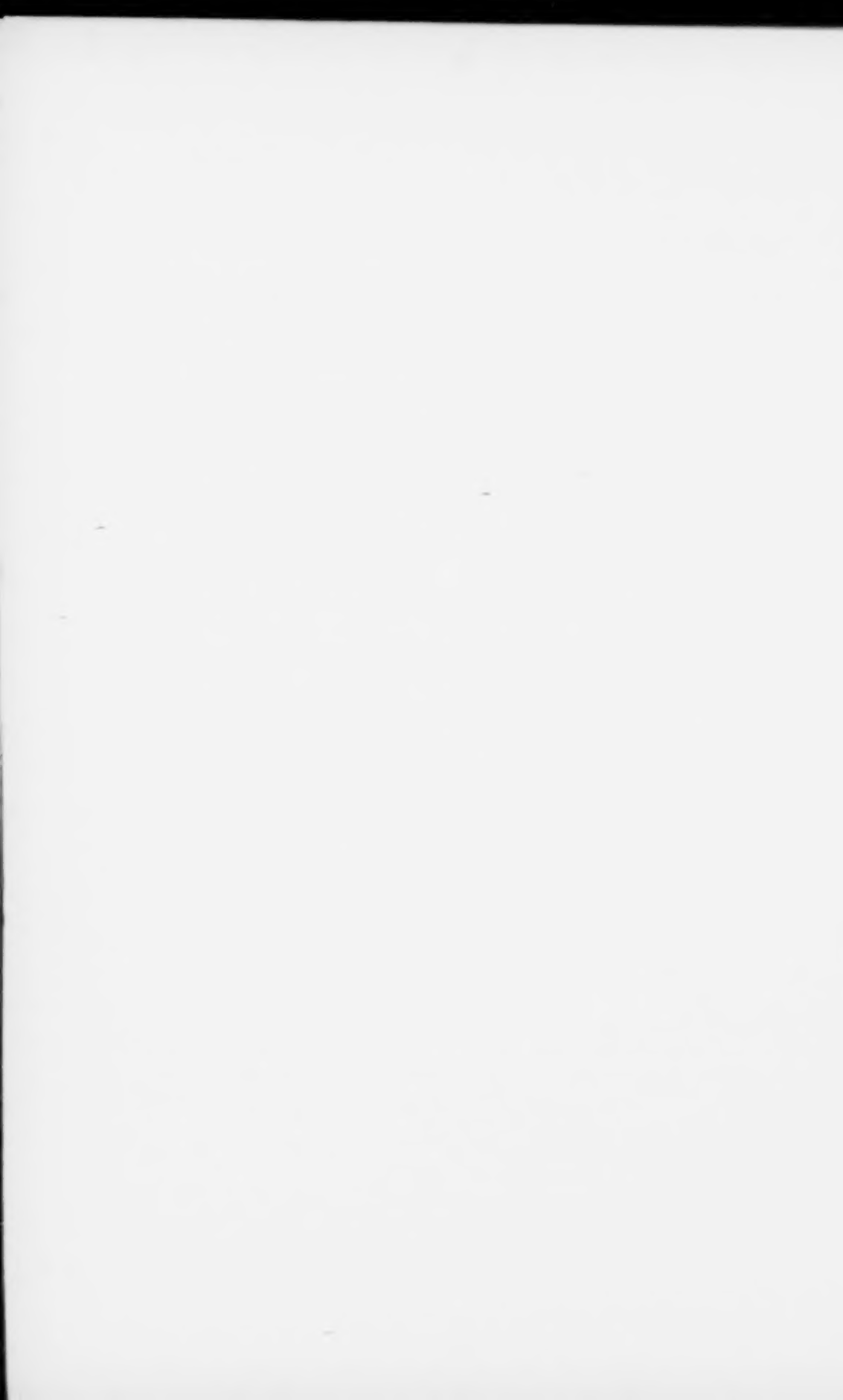
<sup>10</sup> *Gardener v. Toilet Goods Assn.*, 387 U.S. 167, 172 (1967); *Dennis v. Sparks* 449 U.S. 24 (1980).

<sup>11</sup> Friedman, Sloan, and Ross law firm, acting as front for the federal actors engineering the scheme to silence petitioner.

<sup>12</sup> Rendering the injunction protecting those committing the wrongful acts, and barring the party suffering great and irreparable harm from the protections of federal and constitutional law.

<sup>13</sup> Judges Marilyn Petal, Charles Legge, Samuel Conti, Milton Schwartz, Edward Jellen.

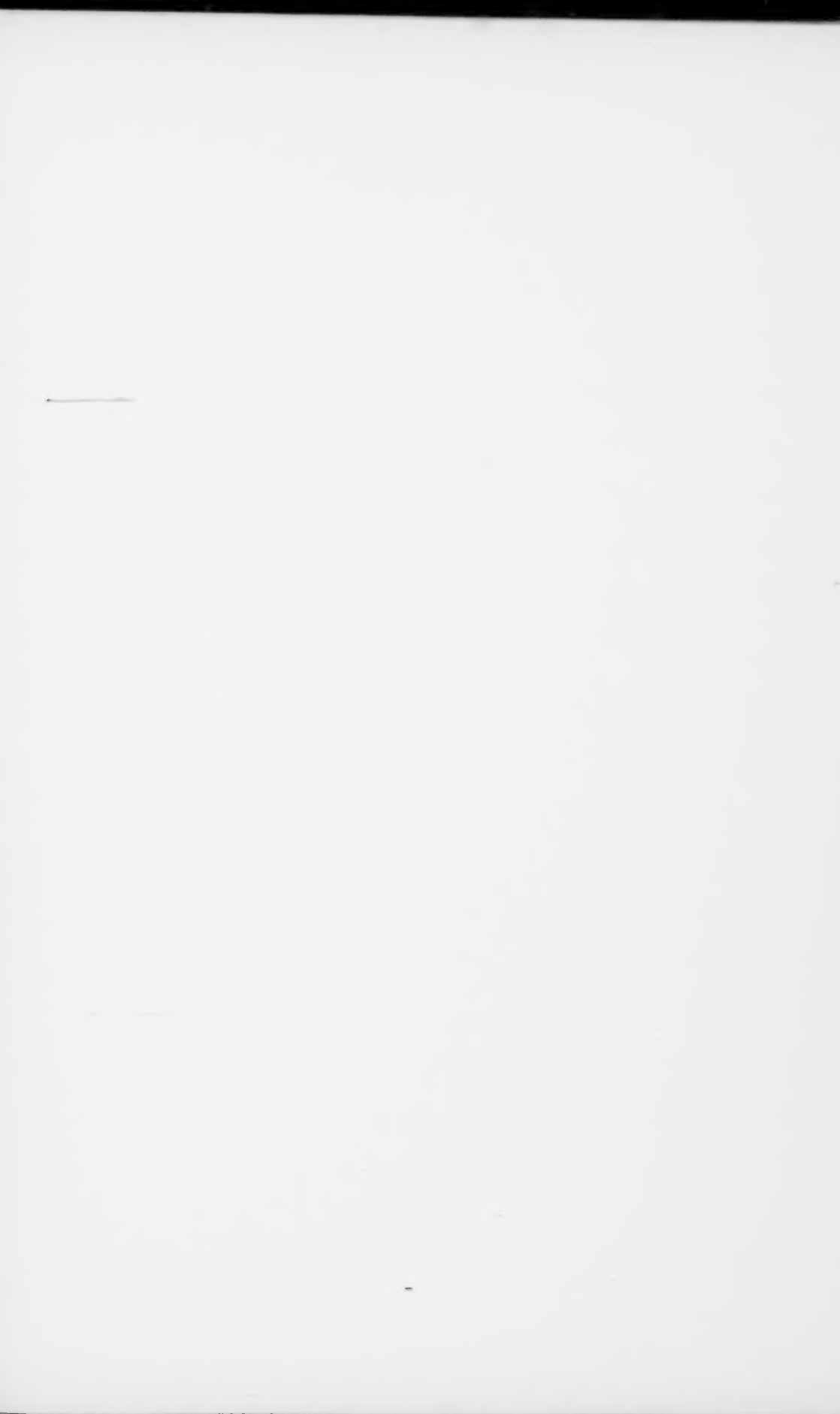
<sup>14</sup> Title 28 U.S.C. §§ 1331, 1343, 1361, 2201, 2202; title 18 U.S.C. §§ 1961, 1962; title 42 U.S.C. §§ 1983, 1985, 1986; FTCA; *Bivens* claims; under First, Fifth, amendments, under privileges and immunities clause of Article IV, § 2; and under case law.



eral causes of action, for which there is no provision in law, extending the due process gridlock, and further making petitioner a man without a country insofar as the protections of laws and constitution are concerned; (g) charging petitioner with criminal contempt when petitioner filed a federal law suit addressing the air disaster corruption and which sought life-and-death relief for the thousands who would perish in air tragedies associated with the air safety misconduct and judicial coverup; (h) charging petitioner with criminal contempt for filing a federal law suit seeking relief from the terminal destruction of petitioners assets, his business, his home, his privacy, his liberty, his quality of life; (i) sentenced petitioner to prison by a conspiracy between federal judges,<sup>15</sup> for exercising constitutionally protected rights and filing the actions seeking relief for those who subsequently perished in related air tragedies, and seeking relief against the judicial harms inflicted upon petitioner; (j) reversing the legal definition of frivolous, corruptly applying the term to the exercise of constitution-

---

<sup>15</sup> Judge Milton Schwartz, magistrate John Moulds, U.S. Attorney David Levi, and others.



ally guaranteed rights and those provided by statutory and related case law, and suspending due process by the perverted judicial misuse of this doctrine; (k) placing a vexatious litigant label upon petitioner's desperate attempts to obtain the constitutionally guaranteed relief, specifically provided by federal statutes, and corruptly withheld by federal judges.

These judicial outrages define the nation's worst judicial scandal and judicial insurrection, associated with the underlying continuing deaths of Americans and others from the judicially protected air disaster felonies.

This legal and judicial conspiracy forced petitioner to seek relief under the specifics and the intent of Congress' chapter 11. Petitioner's financially healthy multi-million dollar estate was then devastated by further judicial misconduct. Petitioner was unaware of the existing Ninth Circuit bankruptcy racketeering enterprises in which a low-level participant, trustee Charles Duck, was later indicted.

The Ninth Circuit judiciary extended into the bankruptcy system the pattern of conspiracy, using the already existing Ninth Circuit bankruptcy racketeering





enterprises:

1. Bankruptcy judges<sup>16</sup> wrongfully refused to provide relief from the litany of civil, constitutional, and RICO violations arising in the sham California action. Instead, the bankruptcy judges<sup>17</sup> aided and abetted the scheme, protected those committing the gross civil, constitutional, and RICO violations, that forced petitioner to seek relief in chapter 11.

2. Bankruptcy judge Robert Jones engaged in a conspiracy with others. First, he refused to accept jurisdiction over the two bankruptcy cases (personal and close-corporate) during a hearing on September 11, 1987, and ordered dismissal of petitioner's two bankruptcy cases. The federal actors then induced Jones to change his order, and seize petitioner's assets, even though Jones had already rendered an order refusing to accept jurisdiction. Without petitioner's knowledge, and after refusing to accept jurisdiction, and without the corporate case being on the calendar, and violated the statutory requirement

---

<sup>16</sup> Judge Robert Jones (Las Vegas); Judges Wolfe and Edward Jellen (Oakland).

<sup>17</sup> Judges Robert Jones, Wolfe, Edward Jellen, and the Ninth Circuit Bankruptcy Appellate Panel.



for noticed hearing, legally recognized cause, supporting evidence. Judge Jones became a part of the overall conspiracy, and ordered (September 27, 1987) seizure of petitioner's assets during a hearing on petitioner's personal chapter 11 case, on a motion limited to removal of the automatic stay. This seizure of multi-million dollar assets under lawless, unconstitutional, and corrupt conditions, brazenly violated Fifth Amendment constitutional due process and property rights; violated the statutory requirement (11 U.S.C. § 1104) for a noticed hearing, legally recognized cause, supporting evidence). Judge Jones then sought to cover his tracks, and falsified the order seizing the assets, fraudulently stating the hearing was held on October 8, 1987. There was no hearing on that date, or any other date, relating to the property seizure, except the September 27, 1987 hearing. The constitutional violations were so common-place in the Ninth Circuit pattern of conduct that these constitutional outrages didn't merit any response from the entire Ninth Circuit Court of Appeals, or this Supreme Court.

3. Judge Jones then appointed later-indicted trustee Charles Duck to seize petitioner's assets. Duck utilized



his earlier bankruptcy racketeering activities to further destroy petitioner's assets, with full approval of all federal court levels. The trustee and federal bankruptcy judges then openly prostituted the intent and specifics of chapter 11, and destroyed the financially healthy chapter 11 cases whose only problems were the judicially engineered scheme to silence petitioner's exposure of the multi-faceted air disaster, government, and judicial corruption.

4. After the corrupt judicial seizure of petitioner's assets, the Ninth Circuit judges conspired to deny petitioner his due process right to defend. The federal judges (a) protected Duck against the consequences of his lawless, unconstitutional, and criminal activities, denying every petition, appeal, and request made by petitioner; (b) protected the parties to the state conspiracy, including the law firm acting as the front and the cooperating California judges, upholding void orders rendered without personal and without subject matter jurisdiction and that violated large blocks of state and federal laws and constitution; (c) rendered unlawful and unconstitutional orders barring petitioner from filing any appeals, opposi-



tions, or other procedural and substantive due process; (d) unfiled appeals, oppositions, and other papers, stripping petitioner of procedural due process, and protecting the criminal and unconstitutional activities; (e) charged petitioner with criminal contempt for filing appeals and oppositions; (f) sentenced petitioner to federal prison for exercising constitutionally protected rights objecting to the corrupt judicial acts; (g) ordering the liquidation of petitioner's assets; (h) rendering order to pay \$80,000 interim legal fees to indicted trustee Charles Duck, and his retained law firm that aided in the wrongful acts; (i) order by Judge Jellen to pay legal fees for the indicted trustee, for his retained law firm (Goldberg, Stinnett, and McDonald), and the legal fees incurred by the replacement trustee (Jerome Robertson), to defend against petitioner's federal action seeking relief from their criminal acts; (j) denying petitioner adequate funds to obtain legal counsel; (k) denying petitioner funds, causing petitioner to live a life style far below the poverty level; (l) tacitly advising the legal fraternity that any attempts to defend petitioner will harm their legal practice; (m) obstructing petitioner's exposure of the air disaster,

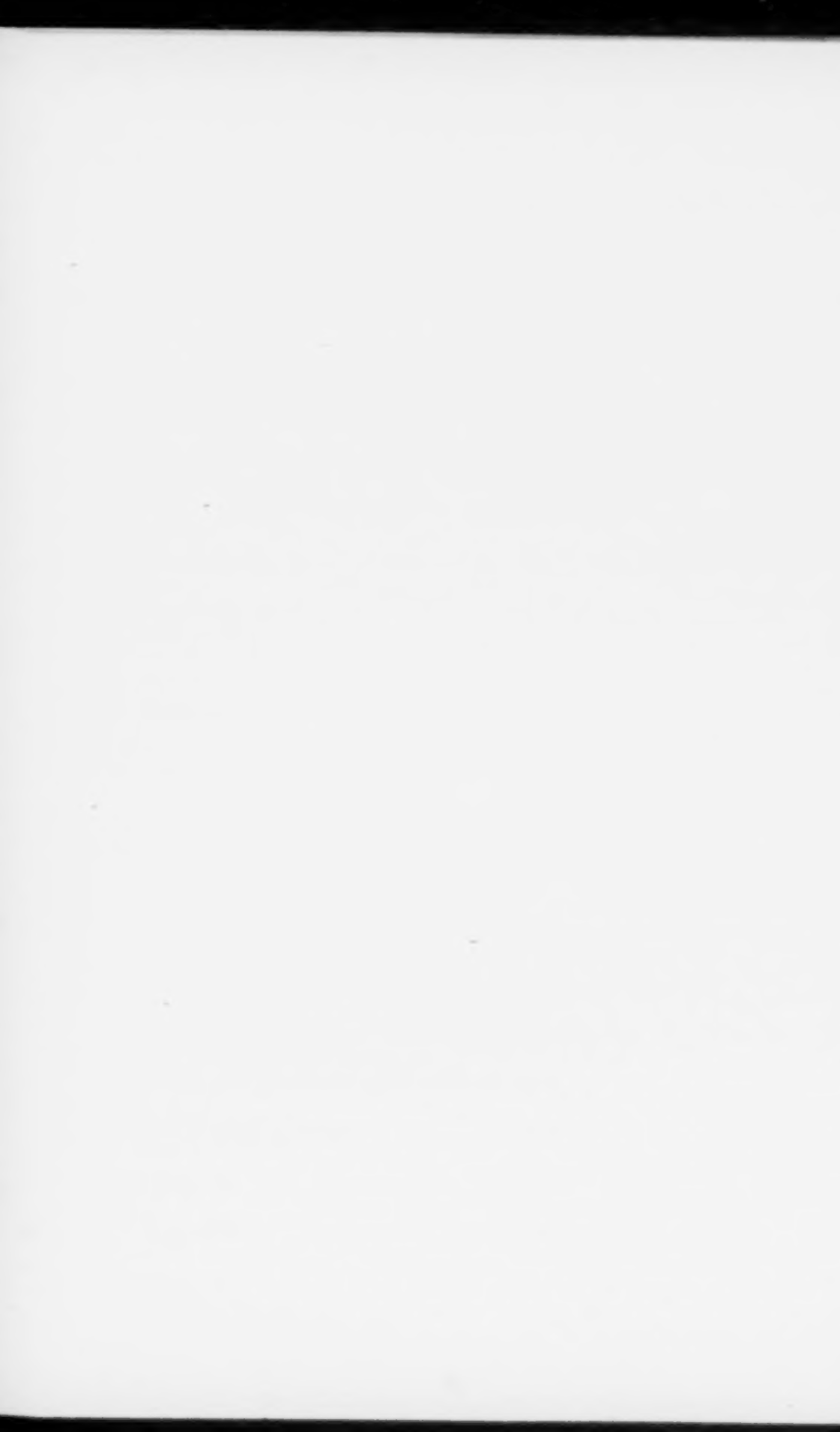




government, and judicial scandal, becoming directly implicated through the conspiracy and aiding and abetting doctrine with those committing the air safety felonies and misconduct.

Since January 1988, petitioner brought to the attention of the bankruptcy courts, the bankruptcy appellate panel, the U.S. District Courts, the U.S. Court of Appeals, and the U.S. Supreme Court, the unlawful, unconstitutional, and criminal acts committed by indicted trustee Charles Duck and others not yet indicted. Every court denied the requests, approved the grave misconduct of the indicted trustee, and allowed the unconstitutional outrages against petitioner to continue.

After the removal of trustee Duck, he refused to turn over to the next trustee the records of petitioner's two bankruptcy estates, further harming petitioner. Duck's retained law firm, and the law firm for the subsequently appointed trustee, requested bankruptcy judge Edward Jellen for an order seizing petitioner's assets to pay legal fees for the indicted trustee, the trustee subsequently appointed, who continues the corruption initiated by Duck, and to pay for the defense of Duck's retained

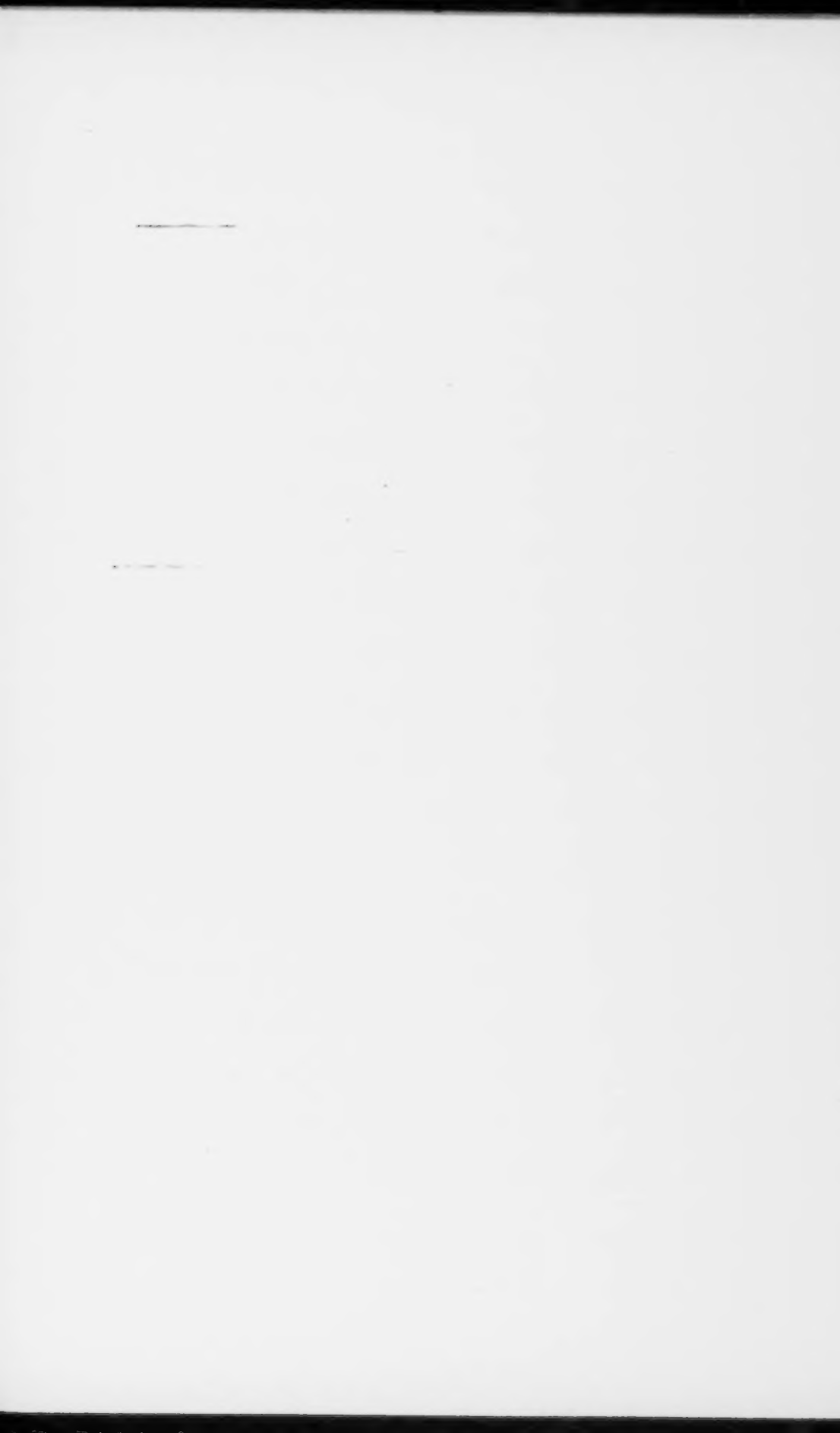


law firm who helped commit the wrongdoings.

Judge Jellen approved the request that victimized petitioner should pay for the defenses of the criminals and indicted trustee whose misconduct inflicted grave civil and constitutional outrages upon petitioner. Simultaneous, the U.S. Trustee and Department of Justice are doing nothing to prevent more criminal outrages inflicted upon petitioner. Among the reasons being that the Department of Justice is deeply implicated in the air disaster, government, and judicial corruption, and that they played a role in the seizure of petitioner's assets, to accomplish what was commenced with the sham California cause of action.

Petitioner filed his petition for writ of mandamus and injunction to vacate two orders: (1) vacate the order that petitioner's assets pay to defend the indicted trustee, his retained law firm, and the replacement trustee duplicating the misconduct of the indicted trustee; (2) vacate the order to sell assets, which are then used to fund the previous order.

Continuing their due process gridlock and protection of the multi-faceted scandal, the Ninth Circuit judg-



es denied petitioner's petition for writ of mandamus and injunction to vacate the order paying attorney fees to the indicted trustee and his co-conspirators, and denying petitioner's request to halt the sale of assets to pay for such money orders.

## DISCUSSION

### I. THE PURPOSE OF AN INJUNCTION IS TO PROTECT A PARTY FROM SUFFERING GREAT AND IRREPARABLE HARM

The purpose of a temporary restraining order and an injunction is to preserve the status quo. This protection is emasculated if relief is *again* denied for the onslaught of constitutional and corrupt outrages. The law provides for an immediate temporary restraining order halting the sale of the property, and set a hearing for a preliminary and permanent injunction. In addition, the Ninth Circuit judges knew two years earlier of the criminal and constitutional misconduct committed by trustee Charles Duck, and the bankruptcy judges who unconstitutionally and corruptly seized petitioner's assets, as if they were toys belonging to the bankruptcy racketeering club in the Ninth Circuit.

Injunctive relief is to be granted in the presence of



proof of any threatened or probable act which might cause irreparable injury. *Public Service Com. v. Wycoff Co.* 344 US 237, 73 S Ct 236, 97 L Ed 291. The basis for injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies. *Beacon Theatres, Inc. v. Westover*, 359 US 500, 79 S Ct 948, 3 L Ed 2d 988. The basis of injunctive relief in the federal courts is irreparable harm and inadequacy of legal remedies.

To qualify for a preliminary injunction, a party must show "(a) irreparable harm and (b) either (1) likelihood of success on the merits or (2) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly toward the party requesting the preliminary injunctive relief." *Jackson Dairy v. Hood*, 596 F.2d 70, 72 (2d Cir. 1979).

Federal Rule of Civil Procedure Rule 65 provides for temporary restraining order, with a preliminary injunction hearing to follow. Rule 52(a) requires the court "... shall ... set forth the findings of fact and conclusions of law which constitute the grounds of its action." The



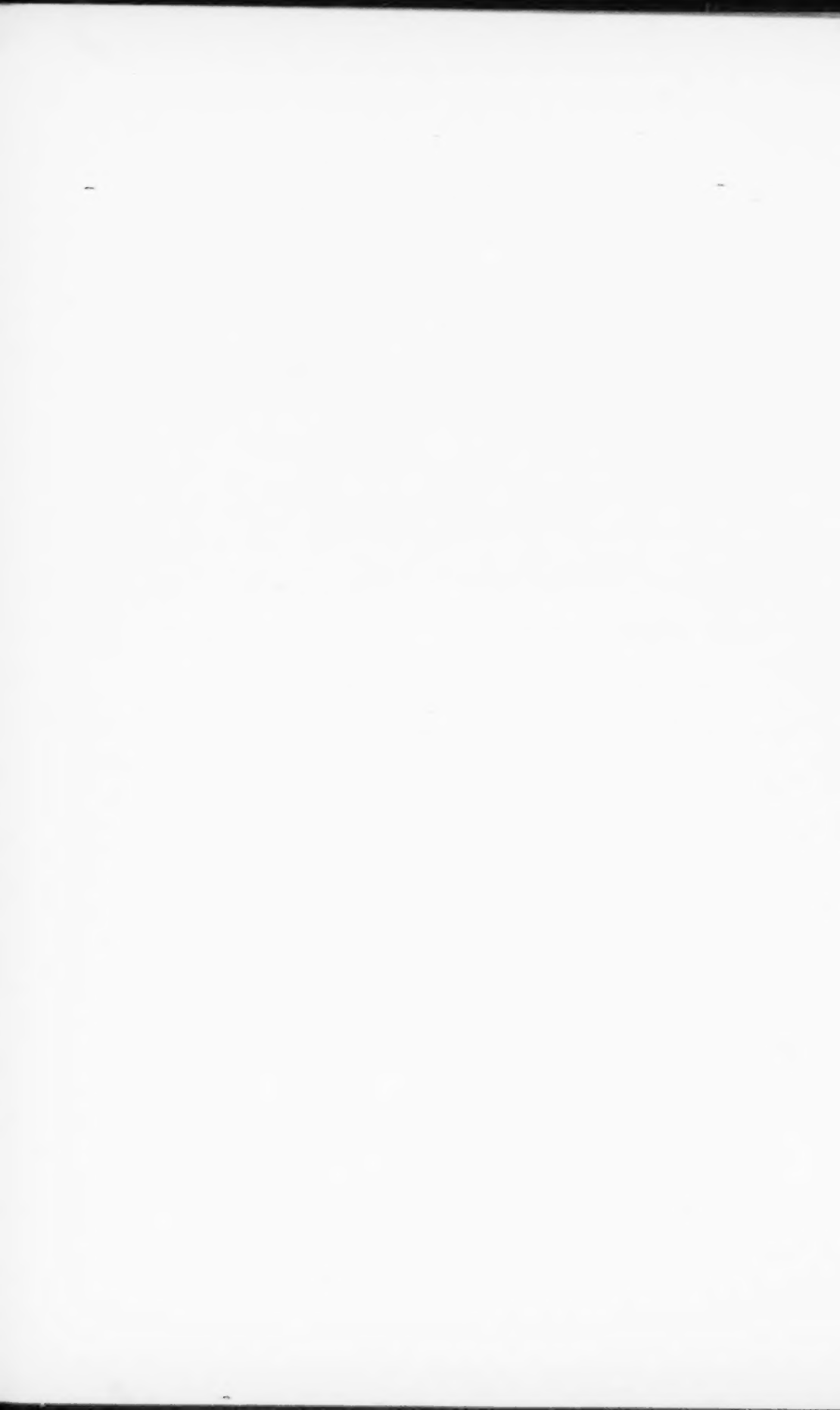


Court of Appeals gave no reason for aiding and abetting the criminal and unconstitutional actions taken against petitioner, and their protection of the indicted trustee, Charles Duck.

II. THE BANKRUPTCY COURT LACKED JURISDICTION TO RENDER ANY ORDER.

A. Absence of jurisdiction arises from the September 11, 1987 order refusing to accept jurisdiction, which had never been vacated.

During a hearing on September 11, 1987, bankruptcy judge Robert Jones rendered an order refusing to accept jurisdiction, and ordering that the two bankruptcy cases (personal and closely-held corporation) would be dismissed in 60 days. During a hearing to remove the automatic stay on the personal bankruptcy case, held on September 28, 1987, the court ordered the seizure of petitioner's corporate asset chapter 11 case (which was not on the calendar for any hearing), and the seizure of petitioner's personal chapter 11 estate (which was calendared solely for removal of the automatic stay). Immediately after rendering the verbal order seizing petitioner's assets, Judge Jones signed the order of abstention that was verbally rendered on September 11, 1987. Then,



to cover up for this serious contradiction, a written order dated October 11, 1987 was signed by Judge Jones, fraudulently stating the hearing on seizing petitioner's assets via a trustee occurred on that date. There was no hearing on that date, or any other date, relating to appointment of a trustee, other than the October 28, 1987 hearing. Petitioner's multi-million dollar assets, which petitioner used in the public interest to expose the air disaster, government, and judicial scandal, was blatantly seized as if a state of martial law existed and the laws and constitution of the United States were suspended. Those threatened by the activities funded by these assets committed the constitutional atrocities that have been protected for the past two years by Ninth Circuit judges and the justices of the U.S. Supreme Court.

While these constitutional outrages continued, thousands of deaths occurred in air tragedies caused, or permitted to occur, by the air safety corruption petitioner sought to expose, and the federal judiciary sought to cover up. The gravity of these judicial outrages requires massive impeachment of federal judges, the identify of which are obvious from the actions filed by petitioner.



**B. The December 14, 1987 order transferring venue from Las Vegas to Oakland was appealed, which halted all trial court proceedings on matters affected by the appeal.**

Jurisdiction was also lost when plaintiff filed a notice of appeal of this court's order refusing to vacate the appoint of the trustee.

It is the rule in the Ninth Circuit that the filing of a proper and timely Notice of Appeal divests the court of jurisdiction over those matters that are on appeal or subject to the appeal. *Donovan v. Mazaola*, 761 F.2d 1411, 1414, 1415 (9th Cir. 1985) *Matter of Thorp*, 655 F.2d 997, 999 (9th Cir. 1981). The *Donovan* court held:

The Ninth Circuit follows the general rule, with some exceptions, that the filing of a notice of appeal divests the district court of jurisdiction over the matters appealed. *See, e.g., Miranda v. Southern Pacific Transportation Company*, 710 F.2d 516, 519 (9th Cir. 1983); *Davis v. United States*, 667 F.2d 822, 824 (9th Cir. 1982). This rule has been recently applied to contempt orders. *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1145 n. 1 (9th Cir. 1983) (order quantifying sanction is void for lack of jurisdiction during pendency of appeal); *Matter of Thorp*, 655 F.2d 997, 999 (9th Cir. 1981) (criminal contempt finding void because mandate from appellate decision on civil contempt on same issue had not yet issued).

The loss of jurisdiction after filing notice of appeal



is articulated in *Cowans Bankruptcy Law and Practice*, (1987), Section 18.7, entitled "Loss of Jurisdiction by the Bankruptcy Court on Appeal.

The jurisdiction of the bankruptcy court terminates once an appeal is taken just as the district court loses jurisdiction once an appeal is taken to the circuit.

C.     The Invalidity Of the Order  
Seizing Petitioner's Assets Aris-  
es From the Outrageous and  
Deliberate Violations of Clear  
and Settled Law and Constitu-  
tional Protections

The chapter 11 bankruptcy proceeding, and the federal and state actions preceding the filing, are riddled with major violations of clear and settled statutory and case law, and fundamental constitutional rights. The multitude of constitutional outrages, the absolute and repeated suspension of all procedural and substantive due process, the outright judicial lying, are prima facie evidence of widespread judicial anarchy in the federal courts. This conduct, threatening our form of government, followed the government corruption and deaths of thousands of unsuspecting American and foreigners. The laws and constitution did not foresee judicial and government corruption of this magnitude.





An order appointing a trustee in an environment of fraud, corruption, racketeering enterprises, major civil and constitutional violations, is void. An order for a chapter 11 party to pay the legal fees for a trustee whose criminal and unconstitutional acts caused shocking losses to the party naively relying upon Congressional and constitutional remedies, is a void order.

The situation is the same as it would be if there were no judgment. They should not now be rewarded for their criminal acts. 30A Am Jur Judgments §§ 43, 44, 45. A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments §§ 44, 45.

In *Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974) the court held:

"a void judgment is no judgment at all and is without legal effect. *Lubben v. Selective Ser-*



*vice System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972). A party cannot be precluded from raising the issue of voidness in a direct or collateral attack because of the failure to object prior to, or at the time of, entry of the judgment. ... *a court must vacate any judgment entered in excess of its jurisdiction.*

In *U.S. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985), the court gave an example of a void order:

Portion of judgment directing defendant not to import vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." *Id* at 722.

An order that exceeds the judge's jurisdiction is a void order, or voidable, and can be either ignored, or attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 L ed 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608;

III. The Victimized Petitioner Should Not Have To Pay the Legal Defense For Those Whose Criminal and Unconstitutional Acts Inflicted Grave Personal and Property Harms

Petitioner should not have to pay to defend an in-



dicted trustee, the trustee's retained legal counsel who made the corruption possible, or the newly appointed trustee who continues the corrupt acts. The situation exists wherein the parties implicated in the Ninth Circuit bankruptcy racketeering enterprises are protecting each other against the attempts of the victim to obtain relief.

The Ninth Circuit concocted the sham California cause of action; it stripped petitioner of all substantive and procedural due process to defend against it; it forced petitioner to seek relief in chapter 11 bankruptcy; it then used the ongoing bankruptcy racketeering enterprises to lawlessly and unconstitutionally seize petitioner's assets; and now orders that the seized assets fund the legal defenses of the criminal enterprise. Simultaneously, petitioner is without funds to hire legal counsel, and encounters attorneys who admit the existence of the federal judicial misconduct, and deny representation on the argument that the same federal judiciary will destroy their legal practice.

#### SUMMARY

This court has a responsibility, long overdue, to address the judicial subversion of our form of govern-



ment. This Court's responsibilities arises under, inter alia, title 28 U.S.C. § 1343, 42 U.S.C. §§ 1983, 1985, 1986, Constitutional protections, *Bivens*, criminal law, under *Matter of McLinn*, 744 F.2d 683 (9th Cir. 1984), and other responsibilities.

If this Court exercised the responsibilities when the air disaster corruption in government was first brought to this Court's attention in 1975, several thousand people may be alive today who perished in corruption-related air tragedies. The Justice Department corruption could not have expanded to the state that it is today. The Ninth Circuit judicial misconduct that has inflicted unlimited harm upon innocent people and undermined our form of government, could not have progressed to this outrageous state in which it now exists.

Petitioner is in pro se, stripped of assets which would not have happened if this Court had exercised its responsibilities in the past. Persons are dead, who would be alive today, if this Court exercised its responsibilities. The deaths will continue. The judicial corruption will continue. The plan to silence petitioner failed, as the scandal is known throughout the United States, kept





under wraps by the extension of the complicity of silence to the news media. Neither this Court nor any other can count on continued coverup. It is time to meet the responsibilities for which this court is paid, and entrusted.

In considering who are adversaries, keep in mind the little children and others who continue to perish in air tragedies made possible by the air disaster misconduct, and the acts stated herein that have one purpose: halt petitioner's exposure of the air disaster and superimposed Justice Department and federal judiciary scandal. Denying relief to petitioner, simultaneously denies relief to those who have yet to perish. Petitioner is the only party with the evidence and willingness to present it, of the great air disaster scandal.

This court has a responsibility to act, in the face of these civil, constitutional, and RICO violations that victimize innocent persons, and undermine our form of government, and makes a mockery out of the word, justice.

Dated: September 26, 1989.

---

Rodney Stich  
Petitioner in pro se



RODNEY F. STICH  
P.O. Box 5  
Alamo, Calif. 94507  
Phone: (415) 820-7250  
Appellant in pro se

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Received Aug 16, 1989  
No.89-

In re:  
70348

Rodney Frank Stich )  
Debtor, )

No. 487-05974 J

In re: )

No. 487-05975J

Western Diablo )  
Enterprises, Inc. )  
Debtor, )

PETITION FOR  
WRIT OF MANDAMUS  
TO HALT SECOND  
ORDER TO PAY  
ATTORNEY FEES  
FOR TRUSTEES DUCK  
AND ROBERTSON,  
ARISING OUT OF  
THEIR CORRUPT  
ACTS; REQUEST  
FOR INJUNCTION

Rodney F. Stich, )  
Western Diablo )  
Enterprises, Inc. )  
Petitioner, )  
v. )

Jerome E. Robertson, )  
Trustee; Edward )  
Jellen, Bankruptcy )  
Judge, )  
Respondents. )



Petitioner petitions this court to deny the motion of trustee Robertson, and vacate the order by bankruptcy judge Edward Jellen, to pay attorney fees to Goldberg, Stinnett, and McDonald. The Goldberg law firm represented former trustee Charles Duck during the corrupt actions which have been identified by the U.S. Trustee, some of which petitioner brought to this court's attention without any relief for the past two years.

Trustee Charles Duck has been investigated by the U.S. Trustee, who subsequently filed charges against Duck with the U.S. Attorney. After trustee Duck was removed from petitioner's estates, trustee Jerome Robertson was appointed, even though the trustee order had been rendered by bankruptcy judge Robert Jones under unlawful and unconstitutional circumstances. Robertson filed a request, without notifying petitioner, for attorney fees to be taken out of petitioner's assets, to pay the Goldberg law firm to defend Duck, Robertson, and themselves, against the law suit filed by petitioner on the basis of misconduct similar to that charged by the U.S. Trustee.



We now have bankruptcy judge Edward Jellen, who committed numerous civil and constitutional atrocities, rewarding Duck, Duck's retained law firm, and trustee Robertson, all of whom conspired and looted petitioner's estates, some of whom are under criminal investigation.

### FACTUAL DESCRIPTION

Scandals reek throughout these bankruptcy cases. Petitioner had a successful business, with no financial problems prior to filing chapter 11 bankruptcy. Petitioner's public spirited attempts to expose and correct a major air disaster scandal threatened powerful persons in government. These persons misused government funds and power, inflicting numerous civil, constitutional, and RICO violations against petitioner.

Numerous persons misused federal funds and power to obstruct petitioners public spirited actions.<sup>18</sup> When

---

<sup>18</sup> The Justice Department blocked Stich's reporting and exposure of the tragedy-related air safety misconduct, starting in 1964, when Stich, as a key government air safety investigator, reported the misconduct to the Justice Department. In 1965 the Justice Department tampered with a federal grand jury at Denver, blocking Stich's exposure of the air disaster felonies to the Grand Jury. In 1974, the Justice Department blocked Stich's attempts to report, expose, and correct





petitioner exercised federal judicial remedies to obtain federal judicial relief, the conspiracy expanded, as federal judges protected the guilty, and sacrificed the lives that were subsequently lost.<sup>19</sup> When the Ninth Circuit

---

the continuing air safety corruption by moving to dismiss a federal action against the FAA filed under Title 28 U.S.C. § 1361. (*Stich v. Federal Aviation Administration*, 554 F.2d 1070 (9th Cir.) (table), cert. denied, 434 U.S. 920 (1977)) In 1975, the Justice Department blocked Stich's attempts to expose the FAA misconduct related to the Paris DC-10 crash, blocking Stich's amicus curiae brief in the Paris DC-10 cargo door air tragedy. (*Flanagan v. McDonnell Douglas Corporation and United States of America*, C 74-808-PH, MDL 172, filed July 17, 1975)). The Justice Department blocked Stich's exposure of the continuing air disaster misconduct by moving to dismiss a federal law suit filed against the National Transportation Safety Board (*Stich v. National Transportation Safety Board*, 685 F.2d 446 (9th Cir.)), under 28 U.S.C. § 1361, exposing the falsification of important airline crash reports and sequestering hard-core crash-causing misconduct. In 1987 the Justice Department blocked Stich's exposure of the ongoing air disaster misconduct by moving to dismiss two federal law suits. *Stich v. FAA, NTSB, Department of Justice*, District of Columbia, Nos. 86-2523, 87-2214, and then charging Stich with criminal contempt for exercising federal and constitutional rights that sought to prevent the repeated deaths of children and others who were no match for the conspirators blocking the exposure of the major air disaster, government, and judicial scandal.

<sup>19</sup> *Stich v. United States, et al.*, 554 F.2d 1070 (9th Cir.) (table), cert. denied, 434 U.S. 920 (1977)(addressed hard-core air safety misconduct, violations of federal air safety laws, threats against government inspectors not to report safety violations and misconduct); *Stich v. National Transportation Safety Board*, 685 F.2d 446 (9th Cir.)(table), cert. denied, 459 U.S.



courts protected the violators, and deprived petitioner of federal remedies, petitioner was forced to seek relief in chapter 11, from the violations. Again, he had no financial problems, and had a five million equity estate.

With the knowledge of the Ninth Circuit courts, petitioner's assets, his home, his business, and his related liberties, were corruptly seized, by appointing trustee Charles Duck without any hearing, violating petitioner's constitutional right to a hearing, and violating statutory requirement for a noticed hearing, legally recognized cause, and supporting evidence. Petitioner entered the sordid area of Ninth Circuit bankruptcy racketeering activities which prompted an investigation,

---

861 (1982))(addressed repeated criminal falsification of official airline accident reports, omitting highly sensitive air safety misconduct, making possible repeated crashes from the same sequestered problems); Amicus curiae brief filed on July 17, 1975, in the Paris DC-10 multi-district litigation, Flanagan v. McDonnell Douglas Corporation and United States of America, Civil Action 74-808-PH, MDL 172, Central District California.)(addressing the long standing FAA misconduct, of which the coverup of the DC-10 cargo door problem was one of repeated instances of tragedy related misconduct); U.S. v. Department of Justice, District of Columbia, Nos. 86-2523, 87-2214, and other actions filed by claimant seeking to expose and correct the powerful and covert air disaster misconduct.

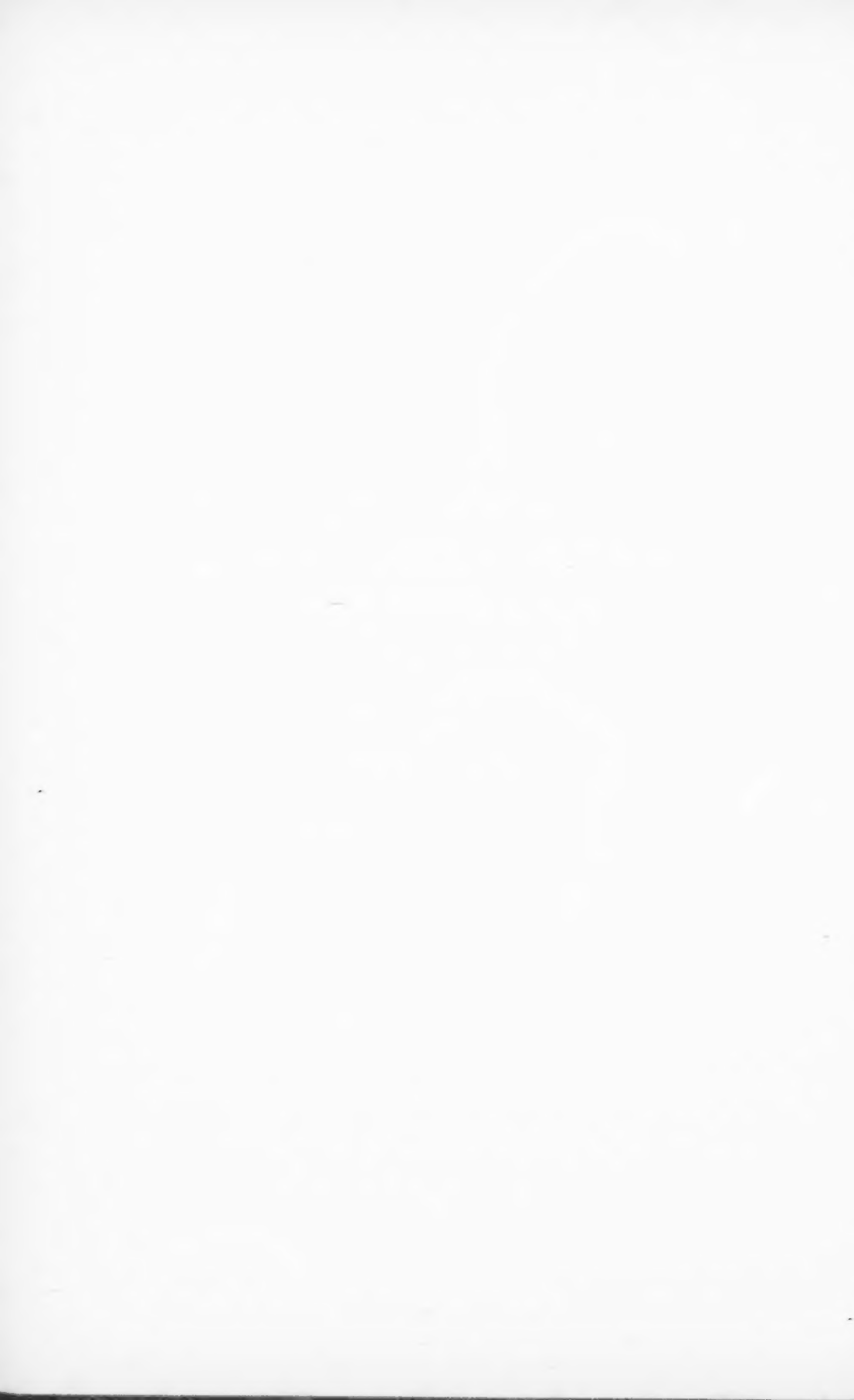


which is now going on.

This same group then misused government facilities and funds to attack petitioner, causing petitioner to seek relief in chapter 11 bankruptcy, unaware that the Ninth Circuit bankruptcy courts were a seasoned bankruptcy racketeering enterprise.

This racketeering activity was then used to unlawfully, unconstitutionally, and corruptly, seize petitioner's assets, his business, his home. To protect this misuse of government funds and power, every relevant protection in law was violated. Petitioner's assets were corruptly seized by bankruptcy judge Robert Jones, and then protected by bankruptcy judge Edward Jellen. These assets were seized, openly violating fundamental constitutional due process rights, violating property rights, and the statutory requirement (11 U.S.C. § 1104) for a noticed hearing, legally recognized cause, supporting evidence.

To protect the judicial corruption, the trustees protected the wrongful judicial acts, protected the participants in the scheme, and obstructed petitioner's protections in law and constitution. Trustee Duck loot-



ed the estate, with the assistance of bankruptcy judge Edward Jellen. Reference is made by petitioner to the earlier allegations of misconduct that have been brought to the Ninth Circuit in other petitions and appeals.

As part of the looting process, Duck obtained an order from Judge Jellen to sell valuable property (27 Cherry Hills Court, Alamo, California), which will be sold by the end of August, 1989. Duck also obtained an order to pay his retained law firm, Goldberg, Stinnett, and McDonald, over \$70,000. These funds are to come from petitioner's estate, forcing the victim to pay for the cost of committing the crimes against the victim, a theory that is embraced in the Ninth Circuit courts.

Even though the trustee had been unlawfully installed over petitioner's properties, U.S. Trustee Sousa appointed another trustee over the estates, Jerome Robertson. Robertson promptly continued the corrupt acts perpetrated by Duck, reflecting the widespread bankruptcy racketeering enterprise that is deeply entrenched in the Ninth Circuit.

When the Ninth Circuit courts refused to provide





petitioner relief from the unlawful, unconstitutional, and RICO violations, petitioner filed law suits against Duck, and his retained attorneys, Goldberg, Stinnett, and McDonald, alleging civil, constitutional, and RICO violations. Another suit was filed against trustee Robertson, after Robertson continued the looting of the estate, and refusing to protect the estate. At the same time, petitioner's assets had been seized, and he is without funds to hire legal counsel, while the racketeering enterprise loots petitioner's estate to pay for their corrupt acts.

It is petitioner's position that his estate should not be further looted to pay the defense of the corrupt trustees. It is petitioner's position that this court has a responsibility to act in this matter. Its failure to exercise this responsibility in the past has made possible the corruption in the bankruptcy system that made a mockery of the congressional intent to provide persons with relief in chapter 11 bankruptcy. Petitioner would never have had to seek relief in chapter 11 if federal funds and power had not been corruptly misused to silence petitioner's exposure of the air disaster misconduct.



## DISCUSSION

### III. THE PURPOSE OF AN INJUNCTION IS TO PROTECT A PARTY FROM SUFFERING GREAT AND IRREPARABLE HARM

The purpose of a temporary restraining order and an injunction is to preserve the status quo. This protection is emasculated if relief is *again* denied for the onslaught of constitutional and corrupt outrages. The law provides for an immediate temporary restraining order halting the sale of the property, and set a hearing for a preliminary and permanent injunction. Also, this court already has sufficient evidence to take the action that should have been taken nearly two years ago.

Injunctive relief is to be granted in the presence of proof of any threatened or probable act which might cause irreparable injury. *Public Service Com. v. Wycoff Co.* 344 US 237, 73 S Ct 236, 97 L Ed 291. The basis for injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies. *Beacon Theatres, Inc. v. Westover*, 359 US 500, 79 S Ct 948, 3 L Ed 2d 988. The basis of injunctive relief in the federal courts is irreparable harm and inadequacy of legal remedies.



To qualify for a preliminary injunction, plaintiff must show "(a) irreparable harm and (b) either (1) likelihood of success on the merits or (2) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly toward the party requesting the preliminary injunctive relief." *Jackson Dairy v. Hood*, 596 F.2d 70, 72 (2d Cir. 1979).

Federal Rule of Civil Procedure Rule 65, provides for temporary restraining order, with a preliminary injunction hearing to follow. Rule 52(a) requires the court in granting or denying a preliminary injunction, "... shall ... set forth the findings of fact and conclusions of law which constitute the grounds of its action."

The constitutional outrages makes the likelihood of petitioner's success very high, if the Ninth Circuit will apply the law as written.

#### IV. THE BANKRUPTCY COURT LACKED JURISDICTION TO RENDER ANY ORDER.

- A. Absence of jurisdiction arises from the September 11, 1987 order refusing to accept jurisdiction, which had never been vacated.



In a surreptitious hearing held on September 28, 1987, the trustee was appointed without any notice to petitioner, and under corrupt conditions requiring that the written order reflect the hearing to be held on another date, when no such hearing ever occurred.

- B. The December 14, 1987 order transferring venue from Las Vegas to Oakland was appealed, which halted all trial court proceedings on matters affected by the appeal.

Jurisdiction was also lost when plaintiff filed a notice of appeal of this court's order refusing to vacate the appoint of the trustee.

It is the rule in the Ninth Circuit that the filing of a proper and timely Notice of Appeal divests the court of jurisdiction over those matters that are on appeal or subject to the appeal. *Donovan v. Mazaola*, 761 F.2d 1411, 1414, 1415 (9th Cir. 1985) *Matter of Thorp*, 655 F.2d 997, 999 (9th Cir. 1981). The *Donovan* court held:

The Ninth Circuit follows the general rule, — with some exceptions, that the filing of a notice of appeal divests the district court of jurisdiction over the matters appealed. See, e.g., *Miranda v. Southern Pacific Transportation Company*, 710 F.2d 516, 519 (9th Cir. 1983); *Davis v. United States*, 667 F.2d 822, 824 (9th Cir. 1982). This rule has been recently applied to contempt orders. *Shuffler*





*v. Heritage Bank*, 720 F.2d 1141, 1145 n. 1 (9th Cir. 1983) (order quantifying sanction is void for lack of jurisdiction during pendency of appeal); *Matter of Thorp*, 655 F.2d 997, 999 (9th Cir. 1981) (criminal contempt finding void because mandate from appellate decision on civil contempt on same issue had not yet issued).

The loss of jurisdiction after filing notice of appeal is articulated in *Cowans Bankruptcy Law and Practice*, (1987), Section 18.7, entitled "Loss of Jurisdiction by the Bankruptcy Court on Appeal.

The jurisdiction of the bankruptcy court terminates once an appeal is taken just as the district court loses jurisdiction once an appeal is taken to the circuit.

C. Absence of Jurisdiction Arises From the Violations of Clear and Settled Law and Constitutional Protections That Are Riddled Throughout These Proceedings.

These bankruptcy proceeding have been riddled with major violations of clear and settled statutory and case law, and fundamental constitutional rights. The trustee appointment occurred after bankruptcy judge Robert Jones rendered an order of abstention on September 11, 1987, refusing to accept jurisdiction. Then, on September 28, 1987, without the constitutional and



statutory requirement of a noticed hearing, a hearing to defend, and without legally recognized cause and supporting evidence, debtor's multi-million dollar estate was seized, like a bully taking candy from a small child. This outrageous taking occurred with the protection of the bankruptcy appellate panel, district judges, and the Ninth Circuit Court of Appeals. The appellate court has held that it was frivolous for petitioner to object to this seizure and looting of the estate. With this mentality, it is easy to understand how the rampant bankruptcy racketeering enterprise flourished despite the many protects to the Ninth Circuit Court of Appeals.

Other constitutional outrages making the trustee appointment illegal includes (a) refusal of bankruptcy court to provide relief from the civil and constitutional violations arising in a sham California action, which forced debtor to seek relief in chapter 11 bankruptcy; (b) aiding and abetting the state court violations; (c) corrupt, illegal, and unconstitutional seizure of debtor's assets; (d) lifting automatic stays when the business and the properties had large equities behind the secured loans, barring the removal of the stay; (e) continuing to



render orders when notice of appeals halted all proceedings affected by the appeal; (f) unlawful and unconstitutional order barring debtor from filing appeals, oppositions and other defenses; (g) dismissal of civil actions against parties in which causes of action were stated, protecting those who aided and abetted in the corrupt seizure of debtor's assets; (h) and others.

An order appointing a trustee in an environment of fraud, corruption, racketeering enterprises, major civil and constitutional violations, is a shocking judicial outrage, and a nullity. Duck's activities, and that of his retained law firm, were clear fraud, and not proper conduct for this court to approve, by further looting of petitioner's estates. The situation is the same as it would be if there were no judgment. They should not now be rewarded for their criminal acts. 30A Am Jur Judgments §§ 43, 44, 45. A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose



or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments §§ 44, 45.

In *Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974) the court held:

"a void judgment is no judgment at all and is without legal effect. *Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972). A party cannot be precluded from raising the issue of voidness in a direct or collateral attack because of the failure to object prior to, or at the time of, entry of the judgment. ... *a court must vacate any judgment entered in excess of its jurisdiction.*

In *U.S. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985), the court gave an example of a void order:

Portion of judgment directing defendant not to import vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." *Id* at 722.

An order that exceeds the judge's jurisdiction is a void order, or voidable, and can be either ignored, or attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v.*





*Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 l ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608;

III. THE VICTIMIZED PETITIONER SHOULD NOT HAVE TO PAY THE LEGAL DEFENSE FOR THOSE WHO INFLICTED HARM

Petitioner should not have to pay to defend corrupt trustees. It was bad enough that his estate was looted, and his liberties and other constitutional protections destroyed. It was a gross abuse of discretion for bankruptcy Judge Edward Jellen to reward the corrupt trustees for their wrongful acts, especially when petitioner's estates were seized under a cloud of civil, constitutional, and RICO violations.

The racketeering enterprises in the Ninth Circuit bankruptcy courts, which should have been corrected by the court of appeals, should not be allowed to continue at petitioner's expense.

This court has a responsibility to act, in the face of these civil, constitutional, and RICO violations.

SUMMARY

This court has a responsibility, long overdue, to



address its responsibilities under title 28 U.S.C. § 1343, 42 U.S.C. §§ 1983, 1985, 1986, Constitutional protections, *Bivens*, criminal law, under *Matter of McLinn*, 744 F.2d 683 (9th Cir. 1984), and other responsibilities.

Dated: August 8, 1989.

---

Rodney Stich  
Petitioner



United States Court of Appeals  
For the Ninth Circuit

Filed  
Sep 13, 1989

Rodney F. Stich,

Petitioner

Nos. 89-70347  
89-70348

vs.

United States Bankruptcy Court  
for the Northern District of  
California

ORDER

Respondent,

and

Jerome E. Robertson, Trustee,

Real Party in Interest.

---

Before: Fletcher, Canby, and O'Scannlain,  
Circuit Judges.

The petitions for writs of mandamus are denied.



Murray & Murray  
A Professional Corporation  
John Murray  
Suzanne Kramer Lucci  
Two Palo Alto Square, Suite 500  
Palo Alto, CA 94306  
Telephone: (415) 852-9000  
Attorneys for Jerome E. Robertson

Filed  
July 18, 1989

United States Bankruptcy Court  
For the Northern District of California

In re No. 4-87-05974 J

Rodney Frank Stich, Chapter 11

Debtor,

Western Diablo Enterprises, No. 4-87-05975 J

Debtor.

---

Order Authorizing Retention of Special Counsel

Upon reading and consideration of the application of Jerome E. Robertson, the Chapter 11 trustee in the above-referenced case, for an order authorizing him to retain as special counsel herein the firm of Goldberg, Stinnett & MacDonald, all as set forth in more particularity in said application; and said matter having been presented *ex parte* on this date; and

Good cause appearing therefor,





It is further ordered, adjudged and decreed as follows:

1. Jerome E. Robinson, trustee herein, is hereby authorized to retain as special counsel the firm of Goldberg, & Macdonald to represent him in any matter in which Charles Duck, Goldberg, Stinnett & Macdonald or any member or employee thereof is sued by Rodney Stich or Western Diablo Enterprises, Inc.

2. The trustee is hereby authorized to pay the firm of Goldberg, Stinnett & Macdonald, A Professional Corporation, its prevailing hourly rates and any costs incurred by said firm, upon approval of a fee application by this court.

Dated: 7-18-89

---

The "Honorable" Edward D. Jellen  
United States Bankruptcy Judge



Joseph P. Russoniello  
United States Attorney  
Attorney for plaintiff

Original Filed  
Sep. 25, 1989

United States District Court  
Northern District of California

United States of America

Plaintiff,

CR 89-0543 WWS

v.

Violation: Title 18,  
United States Code,  
Section 153--  
Embezzlement By Trustee

Charles Duck,

Defendant.

INFORMATION

COUNT ONE: (18 u.s.c. § 153)

The United States Attorney charges : That

Between or about September 26, 1983 and October  
30, 1987, in Santa Rosa, State and Northern District of  
California,

Charles Duck,

defendant, knowingly and fraudulently, embezzled,  
transferred, and appropriated to his own use approxi-  
mately \$1,314,016.10 which had come into his charge as  
Trustee for the United States Bankruptcy Court for the



Northern District of California, and which money belonged to the estates of debtors, in violation of Title 18, United States Code, Section 153.

COURT TWO: (18 U.S.C. § 153)

The United States Attorney further charges:  
THAT

Between November 1, 1987 and on or about May 17, 1989, in Santa Rosa, State and Northern District of California,

CHARLES DUCK,  
defendant, knowingly and fraudulently embezzled, transferred, and appropriated to his own use approximately \$578,311.44 which had come into his charge as Trustee for the United States Bankruptcy Court for the Northern District of California, and which belonged to the estates of debtors, in violation of Title 18, United States Code, Section 153.

DATED: September 25, 1989.

---

Joseph P. Russoniello  
United States Attorney

(approved as to Form)  
AUSA: Dawson



[seal, U.S.A.]

U.S. Department of Justice  
United States Attorney  
Northern District of California

16th Floor Federal Building, Box 36055  
450 Golden Gate Avenue  
San Francisco, California 94102

For Immediate Release  
Monday, September 25, 1989

A court-appointed trustee for the United States Bankruptcy Court in San Francisco, California, was charged with embezzling almost \$1.9 million from debtors' funds in his safekeeping.

A two-count criminal information was filed in U.S. District Court in San Francisco, charging Charles Duck, of nearby Santa Rosa, with two counts of embezzlement by a trustee. United States Attorney Joseph P. Russoniello said the first count charged Duck with taking a total of \$1,314,016 from the accounts of individuals or firms who had declared bankruptcy, and the second count repeated the same charge for a total of \$578,311.

Russoniello noted that Duck, a wealthy businessman who once declared bankruptcy himself, had been a court-appointed bankruptcy trustee for more than 15 years, during which time he handled thousands of bankruptcy cases.

Attorney General Dick Thornburgh said the criminal charges are the result of "a vigorous investigation conducted by the United States Trustee in San Francisco, Anthony G. Sousa. The United States Trustee Program has been operating nationwide for less than a year now and, in cooperation with United States Attorneys and the F.B.I., is actively pursuing its mission to banish fraud and embezzlement from the bankruptcy system."

Thornburgh noted that during the last year four court-appointed trustees have been convicted and investigations opened into at least half a dozen more.

"We believe this is the largest embezzlement ever charged against a court-appointed bankruptcy trustee," said Thomas J. Stanton, Director of the Executive Of-





fice for United States Trustees, the arm of the Justice Department charged with uncovering fraud and abuse in the bankruptcy system.

The 21 United States Trustees oversee the function of the court-appointed bankruptcy trustees, of whom there are more than 1,700. The court-appointed trustees administer the bankruptcy cases under the direction of the federal bankruptcy courts and are charged with protecting the funds of the debtors so that they may be used to help pay creditors. The court-appointed trustees are gradually being replaced by private trustees appointed by the Department of Justice.

The maximum penalty on conviction of each count is 5 years in prison and a \$250,000 fine.

The case is being prosecuted by Assistant U.S. Attorney Floy E. Dawson, Chief of the Criminal Division for the Northern District of California (Tel. No. 556-4224).



### Declaration of Service By Mail

I, Stephanie Stadtler, declare I am over the age of 18 years, and not a party to this action. My place of residence is 43 Diablo Creek Place, Danville, California.

On September 29, 1989, I served a copy of this jurisdictional statement in an envelope addressed to each of the persons named below, at the address stated, and deposited the envelope in the United States mail at Alamo, California, with first class postage fully prepaid.

U.S. Court of Appeals  
P.O. Box 547  
San Francisco, CA 94101

U.S. District Court,  
Federal Bldg, Sacramento, CA 95814

Murray and Murray, Suite 500  
Two Palo Alto Square  
Palo Alto, CA

U.S. Trustee, Suite 1260  
1401 Lakeshore Dr, Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct.

---

Stephanie Stadtler